unnecessary; but simultaneously it emasculates the statute which permitted the attachment of the stock. The difficulty in the principal case can be avoided by a statutory provision that only the certificates shall be attachable. See UNIFORM TRANSFER OF STOCK ACT, § 13. Such provision is consonant with business custom which regards the certificate as the *res*. See *Puget Sound Bank* v. *Matther*, 60 Minn. 362, 363, 62 N. W. 396, 397.

CORPORATIONS — PROMOTERS — CONTRACTS MADE FOR CORPORATION TO BE FORMED. — Certain promoters of a corporation to be formed agreed, *inter alia*, that if the plaintiff would transfer his interest in some mine property to one of the promoters, as trustee for himself and his associates, to be by him transferred to the corporation when formed, the corporation would give the plaintiff a one fifth interest in the completed enterprise. The plaintiff brought this bill against the corporation and the promoters for specific performance of the contract. *Held*, that it be granted. *Wallace* v. *Eclipse Pocahontas Coal Co. et al.*, 98 S. E. 293 (W. Va.).

In England it is settled that a corporation cannot ratify or adopt a contract made by promoters in its behalf before incorporation. *In re Northumberland Ave. Hotel Co.*, 33 Ch. D. 16; *Natal Land Co.* v. *Pauline Colliery Syndicate*, [1904] A. C. 120. The English rule is not without support in the United States. See *Abbott* v. *Hapgood*, 150 Mass. 248, 252, 22 N. E. 907, 908. But some American jurisdictions allow ratification on such facts. *Oakes* v. *Cattaraugus Water Co.*, 143 N. Y. 430, 38 N. E. 461; *Kaeppler* v. *Redfield Creamery Co.*, 12 S. D. 483, 81 N. W. 907. Other states rely on a doctrine of adoption. *McArthur* v. *Times Printing Co.*, 48 Minn. 319. See *Robbins* v. *Bangor Ry. Co.*, 100 Me. 496, 501. Theoretically, the English rule seems correct. On the other hand, the result reached in the American cases is the desirable one. To reach this result without overthrowing fundamental principles of agency, several theories have been suggested. If there has been a novation effected between the corporation and the third party, all agree that the corporation is bound. *Snow* v. *Thompson Oil Co.*, 59 Pa. St. 209. See *Oldham* v. *Mt. Sterling Imp. Co.*, 103 Ky. 529, 531. Another theory advanced is that the original contract may be regarded as a continuing offer which, if not withdrawn, may be accepted by the corporation. *Pratt* v. *Oshkosh Match Co.*, 89 Wis. 406, 62 N. W. 84. See 14 HARV. L. REV. 536. Neither of these suggestions help to support the decision in the principal case. The bill is brought for the enforcement of the agreement made with the promoters and not of any contract made by the corporation itself.

CRIMINAL LAW — CONCURRENT JURISDICTION OF STATE AND UNITED STATES — SEDITION ACT. — A New Jersey statute made it a crime to incite hostility against the United States (N. J. LAWS, 1918, chap. 44, § 2). *Held*, statute is constitutional. *State* v. *Tachin*, 106 Atl. 145 (N. J.).

In the absence of a federal statute on the subject, a state may enact that an offense primarily against the United States is an offense against the state as well. *Halter* v. *Nebraska*, 205 U. S. 34. A state and the United States may have concurrent jurisdiction over a crime against both sovereignties, where the crime is covered by a federal statute and the state statute does not interfere with its operation. *State* v. *Holm*, 139 Minn. 267, 166 N. W. 181; see 40 STAT. AT L. 219, chap. 75, § 1. Each sovereign punishes the offense against itself.

CRIMINAL LAW — FORMER JEOPARDY — IDENTITY OF OFFENSES. — The defendant was indicted for a homicide that was the result of violence in the perpetration of a robbery. He had been previously convicted of the robbery, and he set up this former conviction as a defense. *Held*, a valid defense. *State* v. *Mowser*, 106 Atl. 416 (N. J.).

It is generally said that to constitute double jeopardy the two offenses must be the same in law and fact. See *Commonwealth* v. *Roby*, 12 Pick. (Mass.) 496, 504. But the decisions differ as to when such identity exists. That both offenses arose out of the same transaction is not enough. *Morey* v. *Commonwealth*, 108 Mass. 433; *The King* v. *Barron*, [1914] 2 K. B. 570. If on trial of the first indictment the accused could lawfully have been convicted of the offense charged in the second, or *vice versa*, by the English rule, followed in many American jurisdictions, there is double jeopardy. *Spears* v. *People*, 220 Ill. 72, 77 N. E. 112; see *Regina* v. *Gilmore*, 15 Cox C. C. 85, 87; 2 EAST, PLEAS OF THE CROWN, 522. Thus, it is clear that if one crime is included in the other, or, *a fortiori*, if they are different degrees of the same offense, prosecution for either will be a defense to the other. *Grafton* v. *United States*, 206 U. S. 333; *Floyd* v. *State*, 80 Ark. 94, 96 S. W. 125. But if conviction for one of two offenses cannot be had under proof of the other, some states hold that there is not the requisite identity, even though the offenses arose out of the same transaction and have a common essential ingredient. *State* v. *Rose*, 89 Ohio St. 383, 106 N. E. 50; *State* v. *Patterson*, 66 Kan. 447, 71 Pac. 860. Other courts, however, under like circumstances, consider a common essential ingredient sufficient to cause jeopardy. *State* v. *Cooper*, 13 N. J. L. 361; *Herera* v. *State*, 35 Tex. App. 607, 34 S. W. 943. This view, followed in the principal case, seems sound. See 20 HARV. L. REV. 642.

CRIMINAL LAW — STATUTORY OFFENSES — REQUIREMENT OF *MENS REA* FOR A CRIME BASED ON POSSESSION. — A Mississippi statute provides that it shall be unlawful to possess liquor, and imposes a penalty of a fine or imprisonment, or both (1918 MISS. LAWS, c. 189, § 2). Liquor was found in the shop of the defendant. The jury found that the defendant did not own the liquor, and had no knowledge of the fact that it was in his shop. *Held*, the defendant should be acquitted. *City of Jackson* v. *Gordon*, 80 So. 785 (Miss.).

For certain statutory offenses, such as violations of police regulations, in their nature mere torts against the state, to a conviction of which no moral obloquy attaches, *mens rea* may well be considered unnecessary. *People* v. *Kibler*, 106 N. Y. 321, 12 N. E. 795; *Commonwealth* v. *Weiss*, 139 Pa. St. 247, 21 Atl. 10. But as to certain more serious offenses, particularly where the penalty is imprisonment, justice requires that the defendant be allowed all common-law defenses not expressly negatived by the legislators. *Sherras* v. *De Rutzen*, [1895] 1 Q. B. 918; *State* v. *Brown*, 188 Mo. App. 248, 175 S. W. 131; *State* v. *Cox*, 179 Pac. 575 (Ore.). The court in the principal case fails to note the distinction between these two classes of offenses but reaches the correct result by reading the word "knowingly" into the statute. The court intimates that the case might have been rested simply on the ground that one cannot possess that of which he has no knowledge. But specific knowledge is not essential to possession if there is a general intent to control that in which the chattel is included. *Ford* v. *State*, 85 Md. 465, 37 Atl. 172. See *South Staffordshire Water Co.* v. *Sharman*, [1896] 2 Q. B. 44, 47; HOLMES, THE COMMON LAW, 220. The principal case seems to indicate that the courts will be reluctant to hold a defendant guilty of any crime based on possession unless he has a more specific intent than is generally considered necessary to constitute possession for the purposes of civil rights and liabilities.

DAMAGES — EXEMPLARY DAMAGES — LIABILITY OF A CORPORATION FOR PUNITIVE DAMAGES FOR THE TORT OF AN AGENT. — In an action for personal injuries alleged to have been sustained by the plaintiff as the result of having been shoved from the platform of one of the defendant's street cars by the defendant's motorman, the court instructed the jury that if the acts of the motorman were done by him wilfully and without legal justification or excuse